IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CWP No.2193-CAT of 2002
Date of decision: 5.7.2007

Union of India and others

...Petitioners

vs.

Madan Gopal Singla and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Mr. Tribhuvan Dahiya, Advocate for the petitioners.

JUDGMENT:

Inspite of service, respondent No.1 has failed to appear. He is proceeded against ex-parte.

We have heard learned counsel for the petitioners. In view of short point involved in the petition, we proceed to decide the same.

This petition challenges order of the Central Administrative Tribunal (CAT) dated 28.8.2001, Annexure P.3 allowing the application filed by respondent No.1 for holding Review DPC for promotion under Biennial Cadre Review (BCR)

Scheme on completion of 26 years.

Case of respondent No.1 before the CAT was that BCR scheme was introduced vide letter dated 11.10.1991 Annexure P.1 providing for higher scale on completion of 26 years of satisfactory service. Respondent No.1 having completed 26 years of service, his case was considered by the department vide order dated 9.12.1992, Annexure P2 and he was found not fit on over-all assessment of confidential reports. The CAT allowed his claim and directed reconsideration of the matter, relying upon order dated 21.7.1995 passed in OA 105/PB/1993 (JN Uppal Vs. Union of India and others).

Learned counsel for the petitioner pointed out that a reference to order dated 21.7.1995 in JN Uppal (supra) shows that employee concerned therein had completed 26 years of satisfactory service but thereafter he had been given punishment. The CAT held that subsequent record was not relevant if the employee had 26 years of satisfactory service. Relevant observations can be seen from para 7 of the judgment, which are as under:-

> "It is no doubt true as pointed out by the learned counsel for the respondents that this case is distinguishable from the present case in that the charge sheet was issued only on 22.1.1992 i.e., after the date of effect of the BCR scheme i.e., 1.10.1991, nevertheless the fact that the judgment has categorically stated that the eligibility criterion

> of 26 years of service was completed by the applicant as early as in 1979 cannot be over looked."

In the present case, the department had gone by the record of 26 years of service only and not for the later period.

We find merit in the contention raised. In the impugned order, factual distinction of the present case that within 26 years of service itself, record of the original applicant was found not to be satisfactory as recorded in the order dated 9.12.1992, Annexure P.2, has been over-looked. The order of the CAT, thus, suffers from an error patent on the face of record.

Accordingly, this petition is allowed. The impugned order of the CAT is set aside and Original application filed by respondent No.1 before the CAT is dismissed.

(Adarsh Kumar Goel)
Judge

July 5, 2007
'gs'

(Ajai Lamba)
Judge